

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

Expedited Transfer Application Approval

Water Division 2-C

This matter comes before the Director of the Department of Natural Resources (Department) pursuant to Neb. Rev. Stat. § 46-290 (Reissue 2004) which requires any person having a permit to appropriate water for beneficial purposes issued pursuant to Neb. Rev. Stat. §§ 46-233 to 46-235 (Reissue 2004), 46-241 (Cum. Supp. 2006) or 46-242 (Reissue 2004) who desires to transfer the use of such appropriation to a location other than the location specified in the permit to apply for approval of such transfer to the Department. The Director FINDS:

1. On July 10, 2006, William F. Grote, Manager of 33 Ranch LLC, filed an "Application for a Permit for an Expedited Transfer of the Location of Use," application T-1273, under water appropriation D-554.
2. Water appropriation D-554, with a priority date of October 1, 1883, is a permit in the name of 33 Ranch LLC to divert 5.76 cubic feet of water per second (cfs) from the Niobrara River into the Lakotah Canal from a headgate located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, Township 30 North, Range 57 West of the 6th P.M. in Sioux County for irrigation of the following described lands:

Township 30 North, Range 57 West Sioux County		Township 30 North, Range 56 West Sioux County		
	Acres		Acres	
Section 12:	SE ¹ / ₄ NE ¹ / ₄	3.5	Section 18: NW ¹ / ₄ NE ¹ / ₄	30.0
			NE ¹ / ₄ NE ¹ / ₄	1.0
			SW ¹ / ₄ NE ¹ / ₄	35.0
	NE ¹ / ₄ SE ¹ / ₄	11.5	SE ¹ / ₄ NE ¹ / ₄	11.0
Township 30 North, Range 56 West Sioux County			NE ¹ / ₄ SW ¹ / ₄	16.5
	Acres		SE ¹ / ₄ SW ¹ / ₄	13.5
Section 7:	SW ¹ / ₄ NW ¹ / ₄	4.5	NW ¹ / ₄ SE ¹ / ₄	39.0
			NE ¹ / ₄ SE ¹ / ₄	8.0
	NW ¹ / ₄ SW ¹ / ₄	36.0	SW ¹ / ₄ SE ¹ / ₄	40.0
	NE ¹ / ₄ SW ¹ / ₄	15.5	SE ¹ / ₄ SE ¹ / ₄	21.0
	SW ¹ / ₄ SW ¹ / ₄	14.5		
	SE ¹ / ₄ SW ¹ / ₄	32.0	Section 19: NE ¹ / ₄ NW ¹ / ₄	1.0
Section 18:	NE ¹ / ₄ NW ¹ / ₄	5.5	NW ¹ / ₄ NE ¹ / ₄	32.5
	SE ¹ / ₄ NW ¹ / ₄	3.0	NE ¹ / ₄ NE ¹ / ₄	25.5
			SW ¹ / ₄ NE ¹ / ₄	1.0
			SE ¹ / ₄ NE ¹ / ₄	3.5
		TOTAL	404.5	

The appropriation is limited to one cfs for every 70 acres irrigated.

3. Application T-1273 requests a transfer in location of use of water appropriation D-554 from the lands described in Column A to lands described in Column B.

Column A			Column B		
Township 30 North, Range 56 West Sioux County			Township 30 North, Range 57 West Sioux County		
		Acres			Acres
Section 18:	SE $\frac{1}{4}$ SW $\frac{1}{4}$	13.5	Section 12:	SE $\frac{1}{4}$ SE $\frac{1}{4}$	0.8
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	2.4	Section 13:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	7.6
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0		SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.3
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	21.0			
Section 19:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.0	Township 30 North, Range 56 West Sioux County		
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	32.5			Acres
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	25.5	Section 7:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	15.6
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	1.0		SE $\frac{1}{4}$ SW $\frac{1}{4}$	1.9
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	3.5		SW $\frac{1}{4}$ SE $\frac{1}{4}$	1.2
TOTAL		140.4	Section 18:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	38.1
				NE $\frac{1}{4}$ NW $\frac{1}{4}$	32.6
				SW $\frac{1}{4}$ NW $\frac{1}{4}$	19.9
				SE $\frac{1}{4}$ NW $\frac{1}{4}$	22.4
			TOTAL		140.4

It is CONCLUDED that applications for permits for expedited transfers of the location of use must meet the provisions listed in Neb. Rev. Stat. § 46-291(1) (Cum. Supp. 2006); the provisions of Department rule 457 N.A.C. 9.001.03; and, following consultation with the Nebraska Game and Parks Commission as required by Neb. Rev. Stat. § 37-807 (Reissue 2004) must be found not to jeopardize threatened or endangered species or their habitat.

Application T-1273 has been reviewed, and has been found to meet the requirements for an expedited transfer as described in § 46-291(1) and other applicable statutes and Department rule 457 N.A.C. 9.001.03. Application T-1273 should therefore be approved.

It is therefore ORDERED that application T-1273 is hereby APPROVED, conditioned as follows:

- The following described lands are no longer subject to irrigation under water appropriation D-554:

Township 30 North, Range 56 West Sioux County			Township 30 North, Range 56 West Sioux County		
		Acres			Acres
Section 18:	SE $\frac{1}{4}$ SW $\frac{1}{4}$	13.5	Section 19:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	2.4		NW $\frac{1}{4}$ NE $\frac{1}{4}$	32.5
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0		NE $\frac{1}{4}$ NE $\frac{1}{4}$	25.5
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	21.0		SW $\frac{1}{4}$ NE $\frac{1}{4}$	1.0
				SE $\frac{1}{4}$ NE $\frac{1}{4}$	3.5
			TOTAL		140.4

2. Water appropriation D-554, T-1273 shall be shown in the Department's records as an appropriation in the name of 33 Ranch LLC with a priority date of October 1, 1883, to divert 5.76 cfs from the Niobrara River into the Lakotah Canal from a headgate located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, Township 30 North, Range 57 West of the 6th P.M. in Sioux County for irrigation of the following described lands:

Township 30 North, Range 57 West Sioux County		Township 30 North, Range 56 West Sioux County	
	Acres		Acres
Section 12: SE $\frac{1}{4}$ NE $\frac{1}{4}$	3.5	Section 18: NW $\frac{1}{4}$ NW $\frac{1}{4}$	38.1
		NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.1
NE $\frac{1}{4}$ SE $\frac{1}{4}$	11.5	SW $\frac{1}{4}$ NW $\frac{1}{4}$	19.9
SE $\frac{1}{4}$ SE $\frac{1}{4}$	0.8	SE $\frac{1}{4}$ NW $\frac{1}{4}$	25.4
Section 13: NE $\frac{1}{4}$ NE $\frac{1}{4}$	7.6	NW $\frac{1}{4}$ NE $\frac{1}{4}$	30.0
SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.3	NE $\frac{1}{4}$ NE $\frac{1}{4}$	1.0
		SW $\frac{1}{4}$ NE $\frac{1}{4}$	35.0
Township 30 North, Range 56 West Sioux County	Acres	SE $\frac{1}{4}$ NE $\frac{1}{4}$	11.0
Section 7: SW $\frac{1}{4}$ NW $\frac{1}{4}$	4.5	NE $\frac{1}{4}$ SW $\frac{1}{4}$	16.5
		NW $\frac{1}{4}$ SE $\frac{1}{4}$	39.0
NW $\frac{1}{4}$ SW $\frac{1}{4}$	36.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>5.6</u>
NE $\frac{1}{4}$ SW $\frac{1}{4}$	15.5	TOTAL	404.5
SW $\frac{1}{4}$ SW $\frac{1}{4}$	30.1		
SE $\frac{1}{4}$ SW $\frac{1}{4}$	33.9		
SW $\frac{1}{4}$ SE $\frac{1}{4}$	1.2		

The appropriation shall be limited to one cfs per 70 acres.

3. A project map showing the location of all the lands described under appropriation in paragraph number 2 directly above must be filed in the office of the Department by March 29, 2007, prepared in accordance with the Department's rules 457 N.A.C. 9.001.05B and 10. Failure to file a project map by such date will cause the Department to set aside this approval and enter an Order denying the transfer.
4. The installation of a measuring device may be required.
5. Annual reports may be required as provided by Neb. Rev. Stat. §§ 46-261 (Reissue 2004) and 61-206 (Cum. Supp. 2004).
6. Use of water under D-554 may be denied in order of priority when water supplies do not meet the demands of downstream appropriators.

7. Failure to comply with any of the provisions of this Approval may cause cancellation of part or all of this appropriation, or cause this Approval to be set aside and the application denied.

DEPARTMENT OF NATURAL RESOURCES

September 29, 2006

Ann Bleed, Acting Director

A copy of application number D-554, T-1273; Department rule 457 N.A.C. 10; Project Map forms; Project Map Sample; and a copy of this Application Approval were mailed on September _____, 2006, to 33 Ranch LLC, c/o William F. Grote, Manager, 430 Thirty Three Road, Harrison, Nebraska 69346. A copy of this Approval was provided to the Department's field offices, Bridgeport and Crawford, Nebraska.